IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISIDICTION

WRIT PETITION NO.1421 OF 2004

Sopan Bhima Davare ..Petitioner

Vs.

Dada Yashwant Patil and ors. ..Respondents

....

Mr.H.G.Wakshe and P.A.Pol and Mr.J.P.Kharge for Petitioner
Mr.M.R.Katikar for Respondent nos.1 to 3.

....

CORAM : B.H.MARLAPALLE,J.
DATE : FEBRUARY 7,2005

P.C.:

1. Heard Mr.Wakshe, the learned counsel for the petitioner who was impleaded as defendant in R.C.S.No. 19 of 2000. The plaintiffs' application for temporary injunction at Exh.5 came to be rejected by the learned Civil Judge J.D. at Tasgaon on 24.1.2000 and therefore they approached the District Court in Misc. Civil Appeal 77 of 2001. The learned IVth Additional Dist. Judge at Sangli was pleased to allow the appeal vide his judgment and order dated 10.11.2003. The order passed below Exh.5 in R.C.S.No. 19 of 2000 came to be set aside and the said application was allowed by the lower appellate Court with the directions to the defendants, their servants and agents etc. to refrain from taking possession of the suit land otherwise than in due

course of law till the final decision of the suit. Hence, this petition.

2. The lower appellate Court after referring to the orders passed by the revenue authorities which were the subject matter of the challenge in W.P.No. 893 of 1994 referred to the directions in the order passed by this Court on 30.4.1997. This Court had directed the restoration of the suit property to the plaintiffs and the direction of the revenue authorities to hand over the suit property to the present petitioner was set aside. The order passed by this Court on 30.4.1997 has not been varied by any other higher forum and in any case, the petitioner's right to follow due process of law for seeking possession, has not been taken away by the lower appellate Court. Hence, the view taken by the lower appellate Court cannot be termed as manifestly erroneous so as to call for interference under Article 227 of the Constitution of India.

3. Petition is rejected summarily. Ad-interim relief if any, stands vacated. Authenticated copy be provided to the parties. Certified copy of this order is expedited.

[B.H.MARLAPALLE,J.]